Behind The Attack on The Lawyers Guild, See Page 2

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The J. Edgar Hoover-Mc Carthy Axis

Mc Carthy is America's most controversial figure. J. Edgar Hoover is its most feared. When Hoover praises Mc Carthy, that would seem to be page one news. Remarkably little attention was paid by the press last week to the interview the chief of the G-men gave the San Diego *Evening Tribune* of August 22. *The New York Times* buried the story in a three-paragraph "shirt-tail" to another Mc Carthy controversy on page 11 of its August 24 issue. For some reason the story did not appear in the Washington *Post* and the Washington *Times-Herald* until two days later on August 25. The *Times-Herald*, ultra rightist and virtually a house organ for both Hoover and Mc Carthy, buried the story inside, perhaps because someone felt the G-man had been indiscreet.

One aspect of the indiscretion was touched on by an intrepid reporter at Attorney General Herbert Brownell's press conference here three days later. The Department of Justice is supposed to be—and Brownell insisted that it still is—investigating that Senate report of last January on Mc Carthy's financial manipulations. The investigating of the Department of Justice is done through—the Federal Bureau of Investigation. The head of the FBI in the San Diego interview called Mc Carthy "earnest and honest." A reporter asked the Attorney General whether he thought it appropriate "for a member of the Justice Department to make a statement evaluating the character of a person whose affairs are under study in the Department."

The Attorney General declined to comment. He said he had not yet seen the full text of Hoover's statement. "I have full confidence and admiration for Mr. Hoover," Brownell added. "I like to stress that whenever possible." Hoover seems to have a similar confidence and admiration for the Senator he is presumably investigating. Both Hoover and Mc Carthy were registered at the same seaside hotel in La Jolla—by coincidence the G-man said—when Hoover was interviewed. It will take a very brave FBI man to turn in anything unfavorable on Mc Carthy after the Hoover statement.

What The G-Man Chief Said of Low Blow Joe

"Mc Carthy is a former Marine," Hoover said. "He was an amateur boxer. He's Irish. Combine those, and you're going to have a vigorous individual, who is not going to be pushed around.

"I am not passing," Hoover continued more cautiously after this bit of positive hero-worship, "on the technique of Mc Carthy's committee, or other Senate committees. That's the Senator's responsibility. But the investigating committees do a valuable job. They have subpena rights without which some vital investigations could not be accomplished.

"I never knew Senator Mc Carthy," Hoover went on, "until he came to the Senate. *I've come to know him well, officially and personally.* I view him as a friend and believe he so views me.

"Certainly, he is a controversial man. He is earnest and he is honest. He has enemies. Whenever you attack subversives of any kind, Communists, Fascists, even the Ku Klux Klan, you are going to be the victim of the most extremely vicious criticism that can be made.

"I know," Hoover said. "But sometimes a knock is a boost. When certain elements cease their attacks on me, I know I'm slipping."

An Advantage Hitler Lacked

This admission of close relations and declaration of friendship may give Mc Carthy an advantage Hitler lacked—the advantage of close liaison and support from the secret police of the government he wants to take over.

Hoover's closet is well stocked with skeletons. Many in the capital fear the stray bones he may rattle. Few who criticize Mc Carthy dare criticize Hoover. Some who criticize Mc Carthy will go easy if they know he has the G-man's backing. The silence of the nation's editorial writers on this San Diego interview is more eloquent than any comment they could make. There was similar silence in July when at Mc Carthy's worst moment (the forced firing of J. B. Matthews) he held a conference with Hoover and hired the head of the New York FBI office, Frank P. Carr, to replace Matthews as Mc Carthy's staff director. I called attention to this in the *Weekly* for July 25 but saw it mentioned nowhere else. The Hoover conference and the Carr appointment helped to bolster Mc Carthy at a bad time.

Why Editors Look The Other Way

A Hoover-Mc Carthy axis must also spike the feeble popguns of those faint-hearted liberals whose anti-Mc Carthy line has been, "let the FBI do it." This *is* how the FBI does it. The same mish-mash of tenuous guilt-by-association, anonymous gossip and slander on which the Congressional investigators feed so lushly is exactly the same mish-mash the Coplon case turned up in the FBI files.

There is reason to believe that frustrated FBI men have been slipping information of this kind to Congressional witch hunters for a long time, long before Mc Carthy. The New

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Nixon's Part in The Fight Against the Lawyers Guild

Dealers often used Congressional inquiries when frustrated; the most famous case was when Standard Oil negotiated a consent decree with Attorney General Francis Biddle after Pearl Harbor in the hope thereby of hiding its past relations with I. G. Farben. Thurman Arnold, then Assistant Attorney General, foiled this by having himself subpoenaed by the Truman investigating committee, through which he told the whole story. The FBI files would be a similar gold mine for Mc Carthy, and Mc Carthy can also be useful to the FBI.

The FBI is very smart publicity-wise. There was a spate of stories last week-end on Communist plots to smear the FBI. A "highly secret Communist party document" to this effect was given to the North American Newspaper Alliance (see Washington *Sunday Star*, August 30, "Communist Party Directs Comrades to Smear FBI"). The Washington *Times-Herald* next day carried a front page banner headline, "U. S. Reds Plot Campaign to Smear FBI." Victor Riesel in last Sunday's New York *Mirror* reported mysteriously that such orders had been sent out in retaliation for the arrest of two Communist Smith Act fugitives, Thompson and Steinberg. So any editor who comments on the Hoover-Mc Carthy alliance and its political implications risks suspicion of links with the Communist underground.

The Strange Case of the National Lawyers Guild

An example of the chores a Congressional investigating committee can do for the FBI is provided by the case of the National Lawyers Guild. One day in January, 1950, Clifford J. Durr, then president of the Guild, sent the press a notice that two days later he would hold a press conference in Washington and release a 40-page report made by a special committee of the Guild "concerning wiretapping, and other illegal and offensive practices carried on by the FBI . . . based upon the careful analysis of some 800 pages of FBI reports introduced in the Coplon case."

The night before the press conference, Congressman Richard Nixon (now Vice-President), then a leading member of the House Un-American Activities Committee telephoned the Associated Press, United Press and International News Service. Nixon said he had just written a letter to Chairman Wood of the House Committee and wanted to release it for immediate publication. Nixon said he hadn't had time to make copies. The letter was dictated to the wire services over the telephone.

The letter provided the morning papers with sensational headlines as a backdrop for the press conference and the release of the report criticizing the FBI. Nixon's letter asked the House Un-American Activities Committee to investigate the Lawyers' Guild as a Communist front. In its report later that year the House Committee said it had "no doubt" that the Guild's attack on the FBI was "part of an overall Communist strategy aimed at weakening our defenses against the international Communist conspiracy." The report recommended that the Guild be placed by the Attorney General on the subversive list and asked the American Bar Association to consider "whether or not membership in the National Lawyers' Guild, a subversive organization, is compatible with admissibility to the American bar."

It has taken three years to achieve the goal. Brownell capitulated where even Mc Grath and Mc Granery held out. Last week at the annual meeting of the American Bar Association, he announced that he would blacklist the Guild. The ABA's House of Delegates only four years ago voted down a recommendation from its Board of Governors that Guild members be barred from membership in the ABA. This year the delegates applauded Brownell's announcement, and approved without debate a resolution urging the disbarment of all Communist lawyers. In an editorial pointed toward this year's meeting, the August issue of the *American Bar Association Journal* had boasted that men trained in the law "have a special sensitivity, like a musician's sensitivity to disharmony, for anything that threatens liberty." Like so many convention-goers, these members of the bar seem to have left their special sensitivities at home.

"Liberty Under Law"

Neither the Attorney General's address nor the disbarment resolution could easily be reconciled with the theme of this year's Diamond Jubilee meeting of the bar association, which was "Liberty Under Law." Since "it is not unlawful to belong to the Communist party," as the conservative Washington *Star* noted with misgiving in its comment on the resolution last Sunday, "the question really is whether a lawyer should be subjected to the severe penalty of disbarment for doing something that is sanctioned by our law."

The Attorney General disclosed that while he was summoning the Lawyer Guild for a hearing, he had made up his mind in advance.

This matter of allowing a hearing before blacklisting has a long history. Two years ago the U. S. Supreme Court ruled that the Attorney General could not blacklist organizations without some form of notice and hearing. The Department of Justice has been fighting a rear-guard action against that decision (341 U. S. 123) ever since. Last week the government lost another round in the U. S. Circuit Court of Appeals here in the lengthy technical litigation waged to make the Attorney General obey the Supreme Court. In strategic retreat, Brownell has adopted what purports to be a form of notice and hearing. On this the courts have yet to pass. Light was shed on Brownell's new procedure by his speech to the Bar Association. This revealed that he had not served notice of hearing on the accused organization until the very day he announced his unfavorable verdict against it in an address to its old rival, the American Bar Association.

Here is the passage so the reader can judge for himself. "I have conducted the study," Brownell said of his inquiry into the Lawyers Guild, "with great care. I am now prepared to make this determination public. It has been clear that at least since 1946 the leadership of the Guild has been in the hands of card-carrying Communists and fellow travelers . . . I have today served notice to it to show cause why it should not be designated on the Attorney General's list of subversive organizations."

The Attorney General's Occult Powers

The speech showed a mind firmly closed in advance to any evidence which might be produced in favor of the

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To Disbar Radical Lawyers Is Totalitarian Logic

accused. The National Lawyers Guild, a product of a New Deal era revolt against the stuffiness and reactionary outlook of the ABA, has been a Popular Front but not a straight party line organization. It has many non Communists among its members. Their influence has been felt, from the Guild's condemnation of the attack on Finland in 1939 through its defense of Yugoslav lawyers after the Tito break down to its 1950 resolution supporting "the action of the United Nations in opposing the aggression of North Korea against South Korea."

The Attorney General already has at hand a rationalization with which to dismiss such evidence. "On every major issue," he told the bar association, the Guild "has steadfastly followed the Party line . . . *excepting only those issues so notorious that their espousal would too clearly demonstrate the Communist control.*" Such occult standards are a danger to any individual or organization on the Left, since differences with the Communists may thus be dismissed as mere camouflage.

Mr. Brownell's new regulations match this mentality. The hearing board or officer is authorized "to receive as evidence on behalf of the Attorney General information or documentary material, in summary form or otherwise, without requiring disclosure of classified security information or the identity of confidential informants." Witnesses "shall be subject to cross-examination, provided that no witness on behalf of the government shall be required to disclose classified security information or the identity of confidential informants." As in the loyalty procedures of the past, the nature of the evidence and the source of the accusations may be kept secret. This is not a hearing in any real sense of the word.

Nobody Discusses The Real Issues

The free atmosphere America knew in the past has become so corrupted that the real issues are hardly discussed anymore. One is whether the Attorney General has any right to proscribe whole organizations as "subversive," a standard still undefined and incapable of definition. Another is whether freedom can be preserved in America if Communists are made a special class outside the law—in the resultant hunt to determine who is a Communist everybody is pushed toward conformity for safety's sake. A third is whether the right to counsel can be preserved for radicals in political prosecutions if lawyers suspected of Communism are in danger of disbarment. Already in an atmosphere where clients are judged by their lawyers and lawyers by their clients it is becoming very difficult for accused radicals to find counsel.

America is rapidly moving back toward a situation Anglo-American law has not known for three centuries. Until the English Revolution of 1688, defense counsel was not allowed persons accused of "treason"—then as loose a term as "subversion" and "disloyalty" are today. Ever since Attorney General, now Supreme Court Justice, Tom Clark in 1949 urged disbarment of lawyers defending Communists, the Department of Justice has sought to destroy the right to counsel in radical cases. Even as it is, a lawyer who takes a radical case, even at the direction of a court, is in danger of losing much of his private practice. This is the application of lynch attitudes.

The drive to disbar radical lawyers illustrates the tendency of the "loyalty" orbit to be widened by one special excuse after another. It began on the plea of a need to protect official secrets, widened out to cover every Federal employe however unimportant, and then was extended to defense plants, docks and the maritime industry. Teachers, radio commentators, librarians, book publishers and newspapermen have all been affected since on the ground that they dealt with ideas and therefore must be policed against "dangerous thoughts" Japanese style. The rationalization in the case of lawyers is that they are "officers of the court."

As applied to the disbarment of radical lawyers, this recalls totalitarian practice. The United Nations report on forced labor in discussing the Soviet Union quotes Vishinsky as saying that "The first requirement of a defending counsel is a high sense of political responsibility . . . an ability to defend his point of view and give battle for his beliefs, not in the interests of his client but in the interests of socialist construction and the interests of our state." The UN report comments that such a conception of defense counsel and the restrictions it places on the defense "considerably increase the risk that the penal system and the system of corrective labor will be used for the oppression of those who are opposed to the regime." The same comment may well apply here soon.

The Witch Hunt and Peace

The stepped up activity of the witch hunters, the Attorney General's capitulation, the emerging Hoover-Mc Carthy axis, the Jenner spy scare report (which we hope to discuss in detail later), are of international as well as domestic concern. Western Europe must realize that the strategy is to intensify an atmosphere in which it becomes more difficult than ever for the Eisenhower Administration to make a firm peace in the Far East.

The White House, like the rank and file of both parties, does not want a resumption of the fighting. But it is as if Eisenhower had exhausted his meager powers of leadership in achieving a precarious truce. The enemies of peace—the China Lobby Senators, the military bureaucracy, the aviation lobby, the anti-Communist fanatics—are working hard to make it difficult to avoid a renewal of the war if Rhee—as he plans—starts it up again. Increased repression at home is part of their strategy.

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JENNINGS PERRY'S PAGE

If We Get Rid of the Veto We Can Let China In

I find myself always trying hard to believe that men in high places who potter around with the fate of our world do have an inkling of what makes sense, since it's the only world we've got. I mean John Foster Dulles, as much as anyone. The more I turn over what he had to say to the lawyers at Boston about routing the veto out of the UN security council the more I like the *possibility* that what he really was planting was a gimmick to get us off the hook with regard to China.

Most of the press here and abroad have gone along with the likely view that our lanky Secretary of State, with his camel's habit of letting down one corner of his mouth, intended something beyond the ritualistic cold war shot at Moscow, and that his allusion to the "obsolescence" of the UN charter was prompted mainly by the dog days' news that now everybody but Liechtenstein has the H-bomb. I venture the other inch at the invitation of the circumstances. Making faces at Moscow is, after all, a postprandial commonplace; and as for the problem of the H-bomb what more is to be said intelligently than that already the H-bomb is about as effectively tied down as is ever can be—by the H-bomb.

Mr. Dulles could not have been assailing the veto seriously as a major stumbling block in the UN's path. We have laid all manner of evil to it; still it is true that only those fine plans we have for ordering the whole world can come to pass on which the great powers, including our own, are in accord. On the other hand, the existence of the magisterial yea or nay in the security council does seriously, in a way we hardly can afford to admit, encumber our own road of escape from the precious quandry of "non-recognition" in which our stubborn and transparent pretenses have cornered us. This problem can use all the ingenuity of which our Mr. Dulles is capable.

In the past, when the adventurous West discovered the ancient East, western wits jested of the people on the other side of the world who walked "with their heads down." Ever since the revolution in China, it has been the people of the West, particularly of the United States, who have walked upside down to keep from seeing the portentous change. Our own deliberate defiance of the natural laws has fooled nobody and has placed us in an impossible posture of ridiculousness. The jests now are toward us. The make believe has, nevertheless, so involved our western "face" that, though obviously we must straighten up sometime (or make ourselves content with the role of chief bubblehead among the nations), the return to national behavior presents aggravating difficulties.

Perhaps only a good trick can serve our need and just perhaps Mr. Dulles has one knocking around upstairs. If the UN charter should be revised to catch up with the click of the Geiger counters, leaving out the infamous veto, the U. S. could see its way clear to letting a delegate of the Chinese nation into the seats at the UN reserved for China, at our insistence, in the beginning; in the assembly and in the security council—why not?

In the assembly China would have one vote, like Cuba, like all the rest; she could be handled there. In a security council without the veto she could recommend, like each of the other four Great Powers, and no harm done. General Chiang would be pensioned off quietly, given Formosa for *his* China if that could be worked out; all the powers would be in the UN where they could speak to each other directly and without embarrassment, if only to hiss, and reality would be restored.

The rules would have to be changed, of course, as Mr. Dulles proposes; and some undoubtedly would recall that the rules had been drawn in the first place to please the United States, that we had wanted China in a permanent seat on the council in order that we would have at least three votes that we could rely on vis-a-vis the Russian corner. But would it not all be for the best? To kick China off of the council just because of American chagrin at the change of government in China would be too crude; but all of the other members should be able charitably to perceive that removal of the "obsolete" veto would also remove the main fear which all along has accounted for our absurd persistence in refusing to agree that China, under a new regime, still has corporeal being and actual visibility.

Even to help us get our head out of the sand the revision of the UN charter cannot be undertaken before 1955; but we ought to be able to imagine Mr. Dulles looking ahead at least that far. And a sympathetic world, truly aware of our plight, should be willing to abet our trick without letting on.

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